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CEDENO

1  
2 They would ask me questions. Sometimes they  
3 would come to me directly with a problem, I  
4 got suspended, I got terminated. Once that  
5 is done, I would do the next step, what you  
6 see here. I open a case, which is then  
7 followed up with a meeting with management,  
8 and I try to resolve the issue.

9 Q. Okay. If it doesn't resolve?

10 A. If we reach an impasse, we start the  
11 process for arbitrations, which is the case  
12 gets filed, paperwork get drawn on and the  
13 first step of that is mediation.

14 Q. Okay.

15 A. Mediation is where the hotel, with the  
16 union, with their negotiations try to resolve  
17 the issue without going to arbitration. If  
18 that's achieved, it is put in the form of  
19 writing, and the agreement is signed by both  
20 parties; that is the end.

21 In the case when we do not reach an  
22 agreement, then the case goes forward, which  
23 is called the grievance board, and the  
24 grievance board is made up of all the hotels,  
25 New York Trades Board Council. With the

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1 union, the grievance board comes in, and the  
2 panel votes whether their case has enough to  
3 go forward to arbitration or not.

4 If the case passes, and the member is  
5 assigned an attorney, the attorney reviews  
6 the case file and could subpoena witnesses or  
7 other documents he or she feels is necessary,  
8 and then the case will have a date for  
9 arbitration where it's heard by an  
10 arbitrator. If the case is denied, that's the  
11 end of the case.

12 Q. So after the meeting that you had with  
13 Rajan Lai on or around March 2008, were there  
14 any other meetings?

15 A. There was.

16 Q. Can you please tell us when that  
17 meeting took place?

18 A. The exact date, I don't remember, but  
19 it was sometime after that, the March meeting  
20 where the hotel was meeting with the union to  
21 discuss some of the problems that had  
22 occurred, or come across during their  
23 opening. And at one of those meetings, I  
24 brought up the issue of Mr. Rivera and

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1 Mr. Tejada to the hotel with my boss, at the  
2 time, President Michael Simo. And at that  
3 time, the hotel offered, made an offer to the  
4 union to be passed on to the members, to see  
5 if Mr. Rivera and Mr. Tejada were interested,  
6 where they offered them money either to  
7 leave, and there was another offer of money  
8 to stay but in their current positions where  
9 they were.

10 I went back, related the offer to both  
11 gentlemen, both gentlemen denied the offer.  
12 They were supposed to place them at that time  
13 in the front bars if they were to refuse, but  
14 Mr. Lai never followed through on that. He  
15 denied that.

16 Q. So Mr. Lai agreed to reinstate  
17 Mr. Rivera to the front bar?

18 A. Mr. Rivera and Mr. Tejada, that was  
19 part of the agreement, that if they refused  
20 either or, to walk away totally or payment to  
21 stay where they were, they were supposed to  
22 be reinstated to the front bars, and he  
23 denied that at the end.

24 Q. What happened next?

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1 A. That's when I filed the case for  
2 arbitration.

3 Q. I guess you continued to stay involved  
4 in the case after that point?

5 A. Yes.

6 Q. In what capacity?

7 A. Well, I was the business agent that  
8 filed the case, so I have to be there with  
9 them when they go to arbitration.

10 Q. Did you go to the arbitration?

11 A. Yes, I did.

12 MR. SALTZMAN: Mr. Fausto, can  
13 we have some water.

14 MR. ZAPATA: Sure. Let's take  
15 a break. Five minutes, ten minutes?

16 MR. SALTZMAN: Five minutes.  
17 (Whereupon a brief recess was  
18 taken.)

19 Q. So when the case went to arbitration,  
20 did Mr. Lai testify?

21 A. Yes.

22 Q. Were you present when he testified?

23 A. I believe I was, yes.

24 Q. Do you know what reason Mr. Lai stated

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1 CEDENO  
 2 for not allowing Mr. Rivera to work as a  
 3 bartender at one of the front bars?  
 4 A. If I'm not wrong, he stated that they  
 5 were not qualified.  
 6 Q. Did he state what the basis of that  
 7 belief was?  
 8 A. At the arbitration?  
 9 Q. Yes, sir.  
 10 A. No, I don't think he did. If my  
 11 memory recalls, that's when the arbitrator  
 12 questioned him directly.  
 13 Q. And what did you hear?  
 14 A. From who; what the arbitrator said?  
 15 Q. What did Lai say?  
 16 A. He just said that he felt they were  
 17 not qualified, and I remember the arbitrator  
 18 questioned him on how did he come to that  
 19 determination.  
 20 I can't remember what was his exact  
 21 response to that at the time.  
 22 Q. Leon Flanagan, do you know who he is?  
 23 A. Yes.  
 24 Q. Who is he?  
 25 A. He is a bartender.

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1 CEDENO  
 2 Q. Was he employed at the Plaza Hotel as  
 3 a bartender in 2005?  
 4 A. Yes.  
 5 Q. Was he recalled to the Plaza in 2008?  
 6 A. Yes.  
 7 Q. Do you know if he was permitted to  
 8 work at one of the front bars at the Plaza  
 9 Hotel?  
 10 A. He was.  
 11 Q. And is it fair to say that Carlos  
 12 Rivera and Leon Flanagan were similarly  
 13 situated in 2008 in terms of their titles?  
 14 A. Yes.  
 15 Q. Do you know Leon Flanagan's  
 16 background, his ethnic background?  
 17 A. He is Irish.  
 18 Q. Do you know what color skin he has?  
 19 A. White.  
 20 Q. Do you know how old he is, like the  
 21 ballpark?  
 22 A. I would say Leon is about my age,  
 23 early 40's.  
 24 Q. Did you speak to anybody else from the  
 25 Plaza with respect to this grievance?

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1 CEDENO  
 2 A. In what capacity?  
 3 Q. Aside from talking to Rajan Lai about  
 4 the grievance issued by Mr. Rivera, did you  
 5 speak to anybody else that represented the  
 6 Plaza with respect to the grievance?  
 7 A. Yes, as I stated earlier, when there  
 8 was a meeting between the hotel and the  
 9 union, with Michael Simo, there was, I'm  
 10 sorry, I'm trying to remember the name, I  
 11 know one was Guy Iveshi at the hotel, and the  
 12 other gentleman's name was Martin. I  
 13 apologize, I can't remember Martin's last  
 14 name. He was also present.  
 15 Q. Do you know what Guy Iveshi's title  
 16 is?  
 17 A. He represented the owners.  
 18 Q. And Martin?  
 19 A. Martin represented Fairmont, if I'm  
 20 not wrong.  
 21 MR. ZAPATA: Let me just take  
 22 one minute.  
 23 (Whereupon a brief recess was taken.)  
 24 Q. When you spoke to Rajan Lai on or  
 25 around March of 2008 about the grievance that

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1 CEDENO  
 2 was initiated by Carlos Rivera, and he told  
 3 you that Carlos River was not qualified, and  
 4 he had spoken to another manager that had  
 5 been at the Plaza in 2005, did he identify  
 6 who that other manager was?  
 7 A. He did. He did identify who that is  
 8 but I can't remember his name right now.  
 9 MR. ZAPATA: Okay, I have no  
 10 further questions.  
 11 EXAMINATION BY  
 12 MR. MCLANE:  
 13 Q. I have couple questions. Mr. Cedeno,  
 14 my name is William McLane. I'm an attorney  
 15 with the law firm Littler Mendelson, P.C.,  
 16 and I represent the defendants in this  
 17 matter. I have a couple of questions  
 18 regarding your testimony today.  
 19 You testified that the hotel had made  
 20 an offer to Mr. Rivera and Mr. Tejada  
 21 regarding some cash payment to them, that if  
 22 they either left the job or stayed in the  
 23 position that they were in; do you recall  
 24 that?  
 25 A. Yes.

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- 1  
2 Q. Was that offer in writing?  
3 A. Yes, it was.  
4 Q. Was the portion of the offer, where  
5 you testified that if they didn't accept  
6 those two options, that they would be  
7 returned to front bartender status, was that  
8 in writing?  
9 A. No, it was not.  
10 Q. Why wasn't it; do you know?  
11 A. I don't know.  
12 Q. Just take a look at what was marked as  
13 Cedeno 1. I don't know if it's still in  
14 front of you or not.  
15 A. Yes.  
16 Q. And the meeting report portion, that's  
17 your handwriting on the second page?  
18 A. Yes.  
19 Q. While we're at it, is the first page  
20 in your handwriting, as well?  
21 A. Yes.  
22 Q. Do you know whose handwriting appears  
23 on page three?  
24 A. No.  
25 Q. Is it normal to have attached to a new

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- 1  
2 case report, the management's position on a  
3 particular potential grievance?  
4 A. Yes.  
5 Q. Go ahead.  
6 A. Because my report gets filed away to a  
7 legal department, and they make their own  
8 notes and other additions, and they put it  
9 into the file.  
10 Q. So once you process the new case  
11 report, it's then sent on to legal for  
12 review?  
13 A. Yes.  
14 Q. And if possible, legal will contact  
15 someone in management at the hotel?  
16 A. That's correct.  
17 Q. Just, again, looking at the second  
18 page of that. Mr. Zapata had you read  
19 portions of it. Looking at this document,  
20 does it look to you like it's complete? In  
21 other words, does it look to you that it may  
22 have been altered, some words may have taken  
23 out?  
24 A. No.  
25 Q. Is it practice for you to stop writing

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- 1  
2 mid writing?  
3 A. Yes.  
4 Q. You could have been interrupted?  
5 A. Could be a number of things, another  
6 questions asked. Since I don't have the  
7 option of someone to write notes for me...  
8 Q. Would you have taken notes of every  
9 conversation you had with Mr. Rivera  
10 regarding this grievance?  
11 A. Every conversation?  
12 Q. Yes.  
13 A. No.  
14 Q. Would you consider the conversation  
15 where you took those notes to be a formal  
16 conversation?  
17 A. That's correct.  
18 Q. Did you have any other formal  
19 conversation with Mr. Mr. Rivera regarding  
20 this grievance?  
21 A. When you ask "formal conversation,"  
22 are you talking about in my office?  
23 Q. Whatever you consider a formal  
24 conversation, I mean that conversation. We  
25 agreed, where you took those notes was a

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- 1  
2 formal conversation?  
3 A. That's correct.  
4 Q. Are there other types of meetings that  
5 you consider formal meetings where a member  
6 does not come into the office and file?  
7 A. The meeting at the hotel, at the HRA  
8 Department, if there were formal meetings  
9 with the HRA director, yes.  
10 Q. So I take it you do on-site visits at  
11 the hotel?  
12 A. That's correct.  
13 Q. If you do an on-site visit when you're  
14 talking to rank and file, that not a formal  
15 meeting?  
16 A. That's correct.  
17 Q. How many formal meetings did you have  
18 with Mr. Rivera regarding this grievance?  
19 A. I believe there were two.  
20 Q. Where was the second one?  
21 A. In the HRA office.  
22 Q. Who was at that one?  
23 A. Mr. Rivera, myself, Mr. Tejada and Mr.  
24 Rajan.  
25 Q. And was that where an offer was made

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1 CEDENO  
 2 to Mr. River and Mr. Tejada?  
 3 A. I'm sorry?  
 4 Q. There was an offer made at the hotel  
 5 to accept some money in lieu of leaving their  
 6 position or as an option some money to stay  
 7 in the positions that they were recalled in?  
 8 A. No.  
 9 Q. What was the purpose of the second  
 10 formal meeting?  
 11 A. The second meeting was to bring the  
 12 grievance to the hotel to let them know that  
 13 the gentlemen had filed the grievance.  
 14 Q. Is that the meeting where Mr. Lai  
 15 indicated that the plaintiff and Mr. Tejada  
 16 were not qualified?  
 17 A. That's correct.  
 18 Q. Did you have an opportunity to read  
 19 the impartial chairman's position on the  
 20 grievance?  
 21 A. Yes.  
 22 Q. When was the last time you look at  
 23 that?  
 24 A. Last Friday.  
 25 Q. Would agree the impartial chairperson

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1 CEDENO  
 2 summarized the testimony that was given to  
 3 him at the deposition?  
 4 A. Yes.  
 5 Q. And he accurately summarized the  
 6 testimony?  
 7 A. Yes.  
 8 Q. Was there anything summarized by the  
 9 arbitrator that was not correct?  
 10 A. Not to my recollection.  
 11 Q. In your formal meeting with  
 12 Mr. Rivera, where you went for arbitration  
 13 for the new case report, you took your  
 14 information that the hotel had misqualified  
 15 his seniority because of his ethnicity.  
 16 A. Mr. Rivera mentioned that, but I don't  
 17 know if that was in my office or if there was  
 18 a conversation with me at the on-site visit  
 19 to the hotel.  
 20 Q. If he had mentioned that in a formal  
 21 meeting where you took notes, would that be  
 22 something in your mind important enough to  
 23 reduce to writing?  
 24 A. Not necessarily.  
 25 Q. And did Mr. Rivera indicate during

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1 CEDENO  
 2 that first formal meeting that he believed  
 3 that the hotel seniority position had  
 4 anything to do with his age?  
 5 A. I'm sorry, can you restate that.  
 6 Q. Same question as the last one  
 7 regarding his ethnicity. Let's mention age;  
 8 did you think that age played a role?  
 9 A. I can't remember.  
 10 Q. You do remember having a conversation  
 11 where he mentioned that the ethnicity played  
 12 a role in him not being placed as a front  
 13 bartender?  
 14 A. Yes.  
 15 Q. And the second meeting with the  
 16 plaintiff and Mr. Lai at the hotel, did you  
 17 take any notes at that meeting?  
 18 A. Yes.  
 19 Q. And were those notes produced in  
 20 accordance with the subpoena served at the  
 21 meeting?  
 22 A. I don't know.  
 23 MR. SALTZMAN: All notes that  
 24 were made by Mr. Cedeno have been  
 25 produced.

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1 CEDENO  
 2 MR. MCLANE: Okay.  
 3 Q. At the meeting with Mr. Lai, was the  
 4 issue of Mr. Rivera's ethnicity raised?  
 5 A. Yes.  
 6 Q. And in what context?  
 7 A. I mentioned it.  
 8 Q. To whom?  
 9 A. To Mr. Lai.  
 10 Q. What did you say exactly to Mr. Lai?  
 11 A. I said Mr. Lai, this appears to be  
 12 discrimination of some sort on the surface.  
 13 Q. What else?  
 14 A. Because I personally saw the  
 15 bartenders that he hired, and I looked at  
 16 Mr. Rivera and Mr. Tejada and they had  
 17 mentioned it to me, and I said this appears  
 18 on the surface that you discriminated because  
 19 of their race.  
 20 Q. What did Mr. Lai said?  
 21 A. He laughed and he said it had nothing  
 22 to do with that.  
 23 Q. Who was present?  
 24 A. Mr. Rivera, Mr. Tejada, myself and Mr.  
 25 Lai.

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- 1  
2 Q. And did you respond to Mr. Lai's  
3 response to the raised issue?  
4 A. Yes, I told him he better be careful  
5 what he is doing. It does appear good on the  
6 surface.  
7 Q. What was the basis of your belief that  
8 this appeared to be somehow discriminatory?  
9 A. I looked, we looked at Mr. Flanagan,  
10 who was a white male, who was a recall  
11 member, he is not held back in any way, shape  
12 or form from requesting a front bar position.  
13 Then we have two other bartenders, who are of  
14 Hispanic origin, who made the same request  
15 and are denied, and looked at who is  
16 currently there, and they are all white or  
17 female. They are all male or female  
18 ethnicity (sic), I'm sorry.  
19 Q. And these conversations occurred  
20 before the arbitration?  
21 A. That's correct.  
22 Q. Was this issue of Mr. Rivera's  
23 ethnicity raised at the arbitration?  
24 A. I didn't.  
25 Q. Why not?

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CEDENO

- 1  
2 A. At the time we were dealing with the  
3 contract.  
4 Q. Contract violation of his seniority  
5 had something to do with his ethnicity?  
6 A. Can you rephrase.  
7 Q. You said you were dealing with the  
8 contract issue of his seniority; in other  
9 words, his seniority was breached by the  
10 hotel?  
11 A. Correct.  
12 Q. Did Mr. Rivera indicate to you that he  
13 believed that that breach had something to do  
14 with his ethnicity?  
15 A. Yes.  
16 Q. Do you know why?  
17 A. Because my issue was based on the  
18 seniority and that was clearly my issue on  
19 the case.  
20 Q. When Mr. Flanagan was recalled to the  
21 hotel, is it your understanding that he was  
22 recalled as a service bartender in the Palm  
23 Court?  
24 A. All the bartenders were recalled under  
25 the same title.

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CEDENO

- 1  
2 Q. Did Mr. Flanagan come to you to  
3 complain that he was being recalled as a  
4 service bartender?  
5 A. No.  
6 Q. Do you know if he ever complained to  
7 anyone about being a service bartender?  
8 A. Not to my knowledge.  
9  
10  
11  
12 Q. Mr. Ceden, Mr. Zapata handed to you  
13 what is previously marked as P 4; have you  
14 seen this document before?  
15 A. What is this document?  
16 Q. This is the list of the bartenders at  
17 the Plaza prior to its closing.  
18 A. Oh, I'm sorry. This is the list of  
19 the bartenders.  
20 Q. And looks like a date on the bottom  
21 left, assuming it's an American date,  
22 November 6, 2008?  
23 A. Yes, that's correct.  
24 Q. Can we mark this as Ceden 3.  
25 (Whereupon, the aforementioned List of

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CEDENO

- 1  
2 bartenders was marked Ceden Exhibit 3, as of  
3 this date by the reporter.)  
4 Q. The court reporter just handed you  
5 what she has marked as Ceden Exhibit 3; have  
6 you ever seen this document before?  
7 A. Yes.  
8 Q. What is this document?  
9 A. This is the list of the members, the  
10 bartenders and barbacks prior to the closing.  
11 Q. And under the heading titled  
12 "Department," there are several different  
13 departments there, would you agree?  
14 A. That's correct.  
15 Q. And Mr. Rivera is listed as private  
16 dining department; do you see that?  
17 A. Yes.  
18 Q. Is that accurate?  
19 A. No.  
20 Q. Do you know who composed this  
21 document?  
22 A. The hotel did.  
23 Q. When would you have first seen this  
24 list?  
25 A. I saw this in conversations prior to

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1 CEDENO  
 2 the hotel reopening.  
 3 Q. And what did you do to inform the  
 4 hotel that that list was incorrect?  
 5 A. Incorrect as far as what?  
 6 Q. Well, is this list correct?  
 7 A. As far as where the department is?  
 8 Q. As far as anything.  
 9 A. No, this his is not correct.  
 10 Q. What did you do to inform the hotel  
 11 that this list was incorrect?  
 12 A. Nothing.  
 13 Q. Prior to today, when was the last time  
 14 you spoke to Mr. Rivera?  
 15 A. I believe, if I'm not accurate,  
 16 Mr. Rivera called me sometime in January, and  
 17 I didn't speak to him. I heard his voice  
 18 message that told me that I was possibly  
 19 going to be subpoenaed for his case.  
 20 Q. Had you ever had any conversation with  
 21 him about this case?  
 22 A. As far as when?  
 23 Q. As far as any time?  
 24 A. No.  
 25 Q. Do you know what this case is about?

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1 CEDENO  
 2 A. Briefly.  
 3 Q. What's your brief understanding of  
 4 this matter?  
 5 A. That Mr. Rivera is suing the hotel.  
 6 Q. Do you know why?  
 7 A. I believe it's on the basis of  
 8 discrimination.  
 9 Q. Do you know anything else about that?  
 10 A. No.  
 11 Q. As a result of the impartial  
 12 chairman's decision of the arbitration, was  
 13 Mr. Rivera made whole of economic losses as  
 14 far as being misplaced from the hotel?  
 15 A. Yes, as far as the arbitration.  
 16 Q. Do you know at the time of the  
 17 arbitration whether Mr. Rivera had been  
 18 placed back as a front barback?  
 19 A. I'm sorry.  
 20 Q. Bad question. Prior to the  
 21 arbitration, do you know if Mr. Rivera had  
 22 been placed back in the Rose Room or  
 23 Champagne Bar?  
 24 A. Not to my knowledge.  
 25 MR. SALTZMAN: Any other

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1 CEDENO  
 2 questions about anything. You want to  
 3 take five minutes to see, because this  
 4 is it. My e-mail stated let's go on  
 5 with the business of the union,  
 6 because as far as this case, he will  
 7 not come back for any other  
 8 deposition.  
 9 Is that on the record?  
 10 THE REPORTER: Yes.  
 11 EXAMINATION BY  
 12 MR. ZAPATA:  
 13 Q. About how old is Ebelio Tejada?  
 14 A. I have no idea. You want me to guess?  
 15 Q. If you had to guess, how old he was...  
 16 A. I would say Ebelio is about my age, in  
 17 his early 40's, in his early 40's.  
 18 Q. Do you know if Rajan Lai still works  
 19 at the Plaza Hotel?  
 20 A. He does not.  
 21 Q. Do you know where he works?  
 22 A. The last I heard he is in Canada  
 23 somewhere.  
 24 Q. When did you hear that?  
 25 A. Maybe a week or two before he left the

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1 CEDENO  
 2 hotel.  
 3 Q. Do you know where he is employed by  
 4 any chance?  
 5 A. No, I do not.  
 6 Q. You just testified that when you had  
 7 the second meeting with Mr. Rajan Lai  
 8 regarding Mr. Carlos Rivera's grievance, that  
 9 you raised the possibility that there may  
 10 have been discrimination, you said Rajan Lai  
 11 laughed; what position did Rajan Lai hold  
 12 when you had that conversation?  
 13 A. He was the human resource director for  
 14 the hotel.  
 15 Q. Can you please tell us on or around  
 16 when this conversation took place?  
 17 A. Sometime after Mr. Rivera's and Mr.  
 18 Tejada's office meeting sometime in March.  
 19 Q. Do you know if there was ever any  
 20 investigation on the part of the Plaza in  
 21 connection with what you said regarding  
 22 discrimination?  
 23 A. Not to my knowledge.  
 24 Q. Why did you say that you believe that  
 25 it appeared to be discriminatory that

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1 CEDENO  
 2 Mr. Rivera was not permitted to work at the  
 3 front bar?  
 4 MR. MCLANE: Objection; asked  
 5 and answered.  
 6 MR. SALTZMAN: You can answer.  
 7 A. I said it appeared because no one  
 8 actually made the statement, no one said I  
 9 didn't hire or I didn't move Mr. Tejada or  
 10 Mr. Rivera to the front bar because they're  
 11 Hispanic, so that's why I said appears.  
 12 Q. What's the basis?  
 13 MR. MCLANE: Objection.  
 14 MR. SALTZMAN: You can answer.  
 15 A. It did appear when I looked at  
 16 Mr. Flanagan, and then I looked at who was at  
 17 the front bar ethnicity, I couldn't see any  
 18 other legitimate reason, and they, Mr. Rivera  
 19 and Mr. Tejada, had raised that, and  
 20 personally I had to agree, but I didn't have  
 21 any proof professionally, so I just moved on  
 22 the seniority issue.  
 23 MR. ZAPATA: I have no further  
 24 questions.  
 25 MR. MCLANE: I have one more.

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1 CEDENO  
 2 (CONTINUED ON THE NEXT PAGE.)  
 3  
 4 EXAMINATION BY  
 5 MR. MCLANE:  
 6 Q. Do you know who made the decision to  
 7 return Mr. Rivera to the Palm Court?  
 8 MR. ZAPATA: To the where?  
 9 MR. MCLANE: To the Palm Court.  
 10 A. No, I do not.  
 11 MR. SALTZMAN: Thank you. Such  
 12 deposition is closed and witness is  
 13 discharged.  
 14 As we closed, Mr. Cedeno  
 15 informed me that one of his answers  
 16 would require a little amplification  
 17 so that the record is complete.  
 18 In furtherance to give this  
 19 testimony today, and since we were  
 20 still here, the attorneys and the  
 21 court reporter, we're taking time to  
 22 respond fully to one of the questions.  
 23 Mr. Cedeno, would you like to  
 24 amplify one of your answers?  
 25 MR. CEDENO: Sure. I was asked

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1 CEDENO  
 2 by the hotel's attorney the accuracy  
 3 of the document Cedeno 3, and I was  
 4 asked if this document was correct or  
 5 not, and I stated it wasn't. It  
 6 wasn't as far as it listed the  
 7 departmental seniority.  
 8 The reason it was not important  
 9 and was not mentioned at the meeting  
 10 when we recalled the classifications  
 11 is we don't go by the department  
 12 seniority, we go by the job  
 13 classification seniority. So going  
 14 back to fix the department seniority,  
 15 it doesn't matter. All that mattered  
 16 was the classification.  
 17 MR. SALTZMAN: Take a moment to  
 18 see if anyone wants to follow up with  
 19 a question.  
 20 MR. ZAPATA: Just to be clear,  
 21 the meeting where you first saw the  
 22 document that's been identified as  
 23 Cedeno Number 3, what was the purpose  
 24 of that meeting?  
 25 MR. MCLANE: Objection. I'm

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1 CEDENO  
 2 not sure if it's ever been stated that  
 3 he saw that at a particular meeting  
 4 for the first time.  
 5 MR. ZAPATA: I'll strike that.  
 6 All right, no further questions.  
 7 MR. SALTZMAN: Thank you  
 8 everybody. Now I believe it's closed  
 9 and we're going to leave.  
 10 (Whereupon, at 11:43 a.m., the  
 11 examination of this witness was  
 12 concluded.)  
 13  
 14 \_\_\_\_\_  
 15 EDWARD CEDENO  
 16  
 17 Subscribed and sworn to before me  
 18 this \_\_\_\_ day of \_\_\_\_\_ 2011.  
 19  
 20 \_\_\_\_\_  
 21 NOTARY PUBLIC  
 22  
 23  
 24  
 25

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1 CEDENO  
2 EXHIBITS

|   |                           |      |
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1 CEDENO  
2 CERTIFICATE

4 STATE OF NEW YORK )

: SS.:

5 COUNTY OF KINGS )

7 I, VANESSA HARRIS, a Notary Public for and  
8 within the State of New York, do hereby certify:

9 That the witness whose examination is  
10 hereinbefore set forth was duly sworn and that such  
11 examination is a true record of the testimony given  
12 by that witness.

13 I further certify that I am not related to  
14 any of the parties to this action by blood or by  
15 marriage and that I am in no way interested in the  
16 outcome of this matter.

17 IN WITNESS WHEREOF, I have hereunto set my  
18 hand this day of March, 2011.

20  
21 \_\_\_\_\_  
22 VANESSA HARRIS  
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Exhibit “D”

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CARLOS RIVERA,

Plaintiff,

-against- Civil Action No:  
1:10-cv-06661 (WHP)

PLAZA ACCESSORY OWNER LP, EL-AD  
PROPERTIES NY LLC, CPS 1 REALTY LP LLC,  
AND FHR (N.Y.) LLC,

Defendants.

-----X

EXAMINATION BEFORE TRIAL of ANTHONY  
EVANGELISTA taken by the Plaintiffs, held  
at the offices of Fausto E. Zapata, Jr.,  
P.C., on June 20, 2011, at 9:00 p.m.,  
before a Notary Public of the State of New  
York.

\*\*\*\*\*

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|---|---|
| <p style="text-align: right;">Page 2</p> <p>1<br/>2 APPEARANCES:<br/>3<br/>4 THE LAW OFFICES OF FAUSTO E. ZAPATA, JR.,<br/>P.C.<br/>5 Attorneys for Plaintiff<br/>6 277 Broadway<br/>Suite 501<br/>New York, New York 10007<br/>7<br/>8 BY: FAUSTO E. ZAPATA, JR., ESQ.<br/>(212)766-9870<br/>Fz@fzapatlaw.com<br/>9<br/>10<br/>11 LITTLER MENDELSON<br/>Attorneys for Defendants<br/>One Newark Center<br/>12 1085 Raymond Boulevard, 8th floor<br/>Newark, New Jersey 07102<br/>13<br/>14 BY: WILLIAM McLANE, ESQ.<br/>15<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p>   | <p style="text-align: right;">Page 4</p> <p>1 A. Evangelista<br/>2 ANTHONY EVANGELISTA,<br/>3 Having been first duly sworn before<br/>4 a Notary Public of the State of New<br/>5 York, was examined and testified as<br/>6 follows:<br/>7<br/>8 EXAMINATION BY<br/>9 MR. ZAPATA:<br/>10 Q. Please state your name for the<br/>11 record.<br/>12 A. Anthony Evangelista.<br/>13 Q. Where do you reside?<br/>14 A. 8 Yong An Dong Li, Jian Guo Men Wai<br/>15 Avenue, Chaoyang District, Beijing, China<br/>16 100022.<br/>17 Q. Good morning, Mr. Evangelista.<br/>18 A. Good morning.<br/>19 Q. Can you please state your full name<br/>20 for the record?<br/>21 A. Anthony Frank Evangelista.<br/>22 Q. Mr. Evangelista, where are you<br/>23 currently employed?<br/>24 A. I am employed in Beijing, China.<br/>25 Q. Who is your employer?</p>   |
| <p style="text-align: right;">Page 3</p> <p>1<br/>2 STIPULATIONS<br/>3 IT IS HEREBY STIPULATED AND AGREED by and between the<br/>4 attorneys for the respective parties hereto, that:<br/>5 All right provided by the C.P.L.R., and Part 221 of<br/>6 the Uniform Rules for the Conduct of Depositions,<br/>7 including the right to object to any question, except<br/>8 as to form, or to move to strike any testimony at<br/>9 this examination is reserved; and in addition, the<br/>10 failure to object to any question or to move to<br/>11 strike any testimony at this examination shall not be<br/>12 a bar or waiver to make such motion at, and is<br/>13 reserved for, the trial of this action.<br/>14 This deposition may be sworn to by the witness being<br/>15 examined before a Notary Public other than the Notary<br/>16 Public before whom this examination was begun, but<br/>17 the failure to do so or return the original of this<br/>18 examination to counsel, shall not be deemed a waiver<br/>19 of the rights provided by Rule 3116 of the C.P.L.R.,<br/>20 and shall be controlled thereby.<br/>21 The filing of the original of this deposition is<br/>22 waived.<br/>23 IT IS FURTHER STIPULATED, that a copy of this<br/>24 examination shall be furnished to the attorney for<br/>25 the witness being examined without charge.</p> | <p style="text-align: right;">Page 5</p> <p>1 A. Evangelista<br/>2 A. Fairmont Hotels and Resorts.<br/>3 Q. How long have you worked with<br/>4 Fairmont Hotels and Resorts?<br/>5 A. About four years and two and a half<br/>6 years right out of school so about six and<br/>7 a half years altogether.<br/>8 Q. What year did you start working with<br/>9 Fairmont Hotels?<br/>10 A. My first job out of school which was<br/>11 in 2001. January of 2001.<br/>12 Q. In what capacity were you hired?<br/>13 A. I was a management trainee.<br/>14 Q. Did you work continuously or has<br/>15 there been --<br/>16 MR. McLANE: Object to the<br/>17 form. You can answer.<br/>18 A. No. I left Fairmont and then did<br/>19 other things and then came back to<br/>20 Fairmont.<br/>21 Q. When did you come back to Fairmont?<br/>22 A. Let me see. I think it was October<br/>23 of 2007.<br/>24 Q. When you worked at the Fairmont<br/>25 between 2001 and approximately 2003, 2004</p> |

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| <p style="text-align: right;">Page 6</p> <p>1 A. Evangelista</p> <p>2 did you have the same position throughout</p> <p>3 that timeframe?</p> <p>4 A. No.</p> <p>5 Q. Your first time as management</p> <p>6 trainee your title changed, correct?</p> <p>7 A. Right, that's correct.</p> <p>8 Q. It changed to what?</p> <p>9 A. Then I was promoted to assistant</p> <p>10 stewarding manager.</p> <p>11 Q. Can you please describe the duties</p> <p>12 that you performed as a stewarding manager?</p> <p>13 Did you say assistant steward manager?</p> <p>14 A. Assistant steward, yes. I was 22</p> <p>15 years old.</p> <p>16 Q. Can you describe the duties that you</p> <p>17 performed while you worked as an assistant</p> <p>18 steward manager?</p> <p>19 A. Yes. I was responsible for getting</p> <p>20 equipment such as silverware, knives,</p> <p>21 forks, other silver-type products. I was</p> <p>22 responsible for garbage removal; I was</p> <p>23 responsible for banquet events as far as</p> <p>24 cleanup and setup. Things like this.</p> <p>25 Basically I was in charge of mostly</p>                             | <p style="text-align: right;">Page 8</p> <p>1 A. Evangelista</p> <p>2 floor and kind of direct traffic and make</p> <p>3 sure people had drinks in their hands, make</p> <p>4 sure tables were clean, make sure the flow</p> <p>5 of the outlet was going well and just a</p> <p>6 contact on the floor in case anyone needed</p> <p>7 anything.</p> <p>8 Q. Do you know who Carlos Rivera is?</p> <p>9 A. Yes.</p> <p>10 Q. When did you first meet Carlos</p> <p>11 Rivera?</p> <p>12 A. The exact date I couldn't tell you</p> <p>13 but probably some point around then when I</p> <p>14 went into the Oak Bar.</p> <p>15 Q. What position did Mr. Rivera hold</p> <p>16 during the time that you worked at the Oak</p> <p>17 Bar between 2002 and 2003?</p> <p>18 A. Well, I can't -- I know that he was</p> <p>19 -- in the Oak Bar he was a bartender. He</p> <p>20 was tending bar. I don't know the exact</p> <p>21 job classification because I didn't do</p> <p>22 anything administratively. I didn't do</p> <p>23 payroll and I didn't do schedules so I</p> <p>24 don't know but on the floor he was tending</p> <p>25 bar.</p> |
| <p style="text-align: right;">Page 7</p> <p>1 A. Evangelista</p> <p>2 dishwashers, garbage men and silver</p> <p>3 polishers.</p> <p>4 Q. What department did you work in?</p> <p>5 A. Food and beverage.</p> <p>6 Q. Did you hold any other titles while</p> <p>7 you were employed at the Plaza -- I mean,</p> <p>8 strike that. While you were employed with</p> <p>9 Fairmont between 2001 and approximately</p> <p>10 2003, 2004 did you hold any other titles</p> <p>11 aside from what you've told us?</p> <p>12 A. Yes.</p> <p>13 Q. What other title did you hold?</p> <p>14 A. I did stewarding for about a year,</p> <p>15 and then I was moved into the Oak Bar and</p> <p>16 Oak Room and I was an assistant manager</p> <p>17 there as well.</p> <p>18 Q. Can you please tell me the timeframe</p> <p>19 when you worked at the Oak Bar/Oak Room?</p> <p>20 A. I was thinking it was between 2002</p> <p>21 to 2003.</p> <p>22 Q. Can you please describe the duties</p> <p>23 that you performed when you worked there?</p> <p>24 A. Sure. I was a floor manager so my</p> <p>25 basic role, my only role, was to be on the</p> | <p style="text-align: right;">Page 9</p> <p>1 A. Evangelista</p> <p>2 Q. That was on a consistent basis?</p> <p>3 MR. McLANE: Objection to</p> <p>4 the form. You can answer.</p> <p>5 A. I believe so.</p> <p>6 Q. Now, just so that we're clear for</p> <p>7 the record, between 2001 when you started</p> <p>8 working at Fairmont and 2003, 2004 when you</p> <p>9 continued to work at the Fairmont what work</p> <p>10 location did you work at?</p> <p>11 A. The Plaza Hotel, 59th Street and</p> <p>12 Fifth Avenue.</p> <p>13 Q. Now, you said that you started to</p> <p>14 work again with the Plaza in late 2007,</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. In what capacity did you work at the</p> <p>18 Plaza at that time?</p> <p>19 A. My role was beverage director or my</p> <p>20 title was beverage director.</p> <p>21 Q. Can you please describe the duties</p> <p>22 you performed as beverage director?</p> <p>23 A. Sure. I was responsible for two</p> <p>24 areas: The Rose Club and the Champagne Bar.</p> <p>25 My duties were mostly operational. Making</p>   |

Page 10

1 A. Evangelista  
 2 sure that we had liquor, making sure that  
 3 we had a good cocktail and wine program,  
 4 running the floor, day-to-day operations,  
 5 scheduling. Things of that nature. Being  
 6 on the floor and being the face of the two  
 7 bar areas.  
 8 Q. Were you involved at all with  
 9 respect to the hiring of the bartenders  
 10 that were appointed to work at the Rose  
 11 Club or the Champagne Bar in 2007, 2008?  
 12 A. I made recommendations for people  
 13 that I thought would be good bartenders and  
 14 then they went through the interview  
 15 process with my boss and then HR. They did  
 16 the regular interviewing process so some  
 17 people made it and some people didn't.  
 18 Q. Were you familiar with the  
 19 collective bargaining agreement at -- let  
 20 me ask it again.  
 21 A. I'm not familiar with all the  
 22 details of it. I know it's very, very long  
 23 and involved but I was aware of it and  
 24 having worked in a union hotel before I did  
 25 know about it, yes.

Page 11

1 A. Evangelista  
 2 Q. What was your understanding with  
 3 respect to the individuals that had worked  
 4 at the Plaza Hotel prior to its closing in  
 5 2005 that were being recalled to work at  
 6 the Plaza when it reopened?  
 7 A. Can you repeat that again.  
 8 Q. What was your understanding as to  
 9 what rights, if any, the individuals that  
 10 were recalled to work at the Plaza who had  
 11 already been there in 2005 -- what was your  
 12 understanding as to what rights, if any,  
 13 these individuals had with respect to their  
 14 recall rights?  
 15 MR. McLANE: I'm going to  
 16 object to the form. Go ahead.  
 17 Q. I'll ask it again, Anthony. It  
 18 wasn't a good question. Did the  
 19 individuals that had recall rights that  
 20 were hired by the Plaza to return to work  
 21 in 2007 and 2008, were you familiar at all  
 22 with any of the recall rights that these  
 23 individuals had?  
 24 MR. McLANE: Let me just  
 25 object first to the extent that

Page 12

1 A. Evangelista  
 2 there were any recall rights for  
 3 anybody in 2007 but you can go  
 4 ahead and answer, Anthony.  
 5 A. Recall rights, not really. Not  
 6 specifically. I just assumed that they  
 7 would have the same rights as they had when  
 8 they left or when the hotel closed down.  
 9 Q. Let's talk about before the hotel  
 10 closed down. What role, if any, did  
 11 seniority play with respect to the  
 12 bartenders?  
 13 A. Well, I wasn't there when the hotel  
 14 closed, but what I know about is seniority  
 15 played a role in the scheduling. Mostly  
 16 scheduling and bidding for the slots and  
 17 schedule.  
 18 Q. Can you please elaborate?  
 19 A. Sure. Well, a manager would make a  
 20 schedule depending on business needs and  
 21 then that would be bided out to the  
 22 colleagues according to seniority. So if  
 23 person X had the longest tenure then they  
 24 would look at the schedule and pretty much  
 25 pick what shift they wanted to pick or what

Page 13

1 A. Evangelista  
 2 shift they wanted to have and then they  
 3 would go down the list. The person with  
 4 the least seniority would really not have  
 5 much of a choice and would have to do  
 6 whatever wasn't taken at that point.  
 7 Q. Now, just so that we're clear for  
 8 the record, this is -- you're talking about  
 9 the timeframe between 2001 and 2003 or '4,  
 10 correct?  
 11 A. Well, yes. But I just want to make  
 12 clear I really wasn't involved  
 13 administratively. I wasn't allowed to  
 14 begin in any type of responsibility in that  
 15 way because I was too junior and too young.  
 16 For me what really mattered was on the  
 17 floor. I didn't have any idea why people  
 18 were placed where. I knew seniority and I  
 19 knew it was a big thing but that was not  
 20 something that I got involved with at all.  
 21 My main role was to direct the outlets once  
 22 everyone was there. So I didn't have any  
 23 admin duties.  
 24 Q. Now, were you familiar with the  
 25 measures that the Plaza Hotel took with

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| <p style="text-align: right;">Page 14</p> <p>1 A. Evangelista</p> <p>2 resect to recruiting candidates to work at</p> <p>3 the Plaza as bartenders for I guess</p> <p>4 beginning in 2008?</p> <p>5 A. Was I familiar with the measures.</p> <p>6 Yes, I think there might have been some ads</p> <p>7 placed. There were a lot of referrals like</p> <p>8 I know this person; I know that person.</p> <p>9 Things like that. Normal recruiting</p> <p>10 measures I would call them.</p> <p>11 Q. When the hotel reopened in 2008 who</p> <p>12 were the bartenders that worked under your</p> <p>13 supervision if you remember?</p> <p>14 A. I remember a few people off the top</p> <p>15 of my head. There was Laura, Heather, Rob,</p> <p>16 there was Scott. That's all I remember off</p> <p>17 the top of my head.</p> <p>18 Q. Did you ever have any conversations</p> <p>19 with Carlos Rivera regarding his assignment</p> <p>20 when the hotel reopened in 2008?</p> <p>21 A. Not that I remember, no.</p> <p>22 Q. Did you ever have any conversations</p> <p>23 -- strike that. Do you know where Carlos</p> <p>24 Rivera was assigned to work when the hotel</p> <p>25 reopened?</p> | <p style="text-align: right;">Page 16</p> <p>1 A. Evangelista</p> <p>2 would have assumed that he had them with</p> <p>3 his manager in the Palm Court and not with</p> <p>4 me.</p> <p>5 Q. Did you have any conversations with</p> <p>6 Rajan Lai regarding appointing Carlos</p> <p>7 Rivera to work at one of your bars that you</p> <p>8 were in charge of?</p> <p>9 A. No, I don't remember to be honest.</p> <p>10 Q. One more second. Let me find</p> <p>11 something. Now, Robert Canyon, did he work</p> <p>12 for you?</p> <p>13 A. Yes.</p> <p>14 Q. So he worked with you at which bar?</p> <p>15 A. He worked in the Rose Club and the</p> <p>16 Champagne Bar.</p> <p>17 Q. Just so that we're clear for the</p> <p>18 record, we're talking about beginning in</p> <p>19 2008?</p> <p>20 A. Yes.</p> <p>21 Q. Did you know Robert Canyon prior to</p> <p>22 2008?</p> <p>23 A. Yes.</p> <p>24 Q. How did you know him?</p> <p>25 A. Rob worked at Gin Lane which was a</p> |
| <p style="text-align: right;">Page 15</p> <p>1 A. Evangelista</p> <p>2 A. He was assigned to work in the Palm</p> <p>3 Court which was not one of my areas that</p> <p>4 was under my supervision.</p> <p>5 Q. Did you ever have any conversations</p> <p>6 with Liam Flanagan regarding Carlos Rivera</p> <p>7 working at the Palm Court?</p> <p>8 A. No. I had a conversation with Liam</p> <p>9 Flanagan about Liam working in the Palm</p> <p>10 Court.</p> <p>11 Q. What was discussed?</p> <p>12 A. I think he made a reference as to</p> <p>13 why he was working in the Palm Courts. I</p> <p>14 had told him I'm not quite sure. I'm not</p> <p>15 really responsible for these decisions, but</p> <p>16 I could certainly bring it up to my boss</p> <p>17 who was Carlos Bueno and see what we can</p> <p>18 do.</p> <p>19 Q. Did you ever have any conversations</p> <p>20 with Rajan Lai regarding Carlos Rivera</p> <p>21 working at the Palm Court?</p> <p>22 A. No, not that I remember. Again,</p> <p>23 Carlos was assigned to the Palm Court so</p> <p>24 for me I was focused on the Rose Club and</p> <p>25 the Champagne Bar. Any conversations I</p>                          | <p style="text-align: right;">Page 17</p> <p>1 A. Evangelista</p> <p>2 restaurant that I managed.</p> <p>3 Q. How long did you know him prior to</p> <p>4 2008?</p> <p>5 A. About a year. About a year and a</p> <p>6 half.</p> <p>7 Q. Was he a new employee in 2008 at the</p> <p>8 Plaza?</p> <p>9 A. At the Plaza, yeah, he was a new</p> <p>10 employee. Absolutely.</p> <p>11 Q. Were you familiar with his work</p> <p>12 experience prior to him working at the</p> <p>13 Plaza?</p> <p>14 A. Yes.</p> <p>15 MR. McLANE: Other than what</p> <p>16 he's already testified to?</p> <p>17 MR. ZAPATA: Yes.</p> <p>18 MR. McLANE: Other than what</p> <p>19 you've already testified to that</p> <p>20 year and a half or so.</p> <p>21 MR. ZAPATA: All he said was</p> <p>22 that he had known him for a year</p> <p>23 and a half prior to. What I asked</p> <p>24 him was, was he familiar with his</p> <p>25 work experience.</p>   |

Page 18

1 A. Evangelista  
 2 MR. McLANE: I think his  
 3 testimony is that he worked at Gin  
 4 Lane but he can answer.  
 5 A. At the time, yes. I think if I  
 6 remember correctly he worked at Jean  
 7 Georges or a very prominent bar or  
 8 something like that. I had read his resume  
 9 obviously and that's why we hired him at  
 10 Gin Lane. I would have known his  
 11 background at that point. I don't remember  
 12 it now.  
 13 Q. How about Prather Rehm? Do you know  
 14 who she is?  
 15 A. Yes.  
 16 Q. Who is she?  
 17 A. She's a girl who worked in the  
 18 Champagne Bar at the Rose Club.  
 19 Q. Under your supervision?  
 20 A. Yes.  
 21 Q. Prior to 2008 did you know Prather  
 22 Rehm?  
 23 A. No, I did not.  
 24 Q. Were you familiar with her work  
 25 experience at the time that she was hired?

Page 19

1 A. Evangelista  
 2 A. Yes, although I don't remember it  
 3 now.  
 4 Q. Prather Rehm, she was a new  
 5 employee, correct?  
 6 A. Yes.  
 7 Q. Heather Buesing, did you know her  
 8 prior to 2008?  
 9 A. No.  
 10 Q. Where did she work in 2008?  
 11 A. In the Champagne Bar at the Rose  
 12 Club.  
 13 Q. Were you familiar with her work  
 14 experience prior to her working at the Rose  
 15 Club or the Champagne Bar?  
 16 A. Yes, through her resume.  
 17 Q. Do you remember what was on her  
 18 resume?  
 19 A. I don't remember it now, no.  
 20 Q. Hold on for a second. How about  
 21 Shawn O'Toole? Do you know who Shawn  
 22 O'Toole is?  
 23 A. Yes.  
 24 Q. Who is he?  
 25 A. He was a bartender in the Champagne

Page 20

1 A. Evangelista  
 2 Bar at the Rose Club.  
 3 Q. Under your supervision?  
 4 A. Yes.  
 5 Q. Did you know him prior to 2008?  
 6 A. No.  
 7 Q. Were you familiar with his work  
 8 experience when he was hired to work at the  
 9 Champagne Bar and the Rose Club?  
 10 A. Yes, through his resume.  
 11 Q. Do you have any independent  
 12 recollection of what was on his resume?  
 13 A. Today I do not, no.  
 14 Q. How about Laura Switzer? Do you  
 15 know who she is?  
 16 A. Yes.  
 17 Q. Who is she?  
 18 A. She is a bartender for the Rose Club  
 19 and Champagne Bar.  
 20 Q. Did you know her prior to 2008?  
 21 A. No.  
 22 Q. Were you familiar with her work  
 23 experience at the time that she was hired?  
 24 A. Through her resume, yes.  
 25 Q. Did you ever have any disciplinary

Page 21

1 A. Evangelista  
 2 problems with Robert Canyon?  
 3 A. Yes.  
 4 Q. What happened?  
 5 A. The specifics I don't remember.  
 6 It's all on file. Specifically I don't  
 7 remember but he was -- I do remember there  
 8 were some write-ups or documentation done  
 9 on him which I imagine are in his file.  
 10 Q. How about his day-to-day work  
 11 performance? How would you characterize  
 12 it?  
 13 A. I was disappointed in Rob.  
 14 Q. How about Prather Rehm? Did you  
 15 have any disciplinary problems with her?  
 16 A. Yes.  
 17 Q. Can you please elaborate?  
 18 A. Again, I don't remember the  
 19 specifics but her work ethic was not up to  
 20 par with a five-star hotel and the  
 21 documentation was made and it's in her  
 22 file.  
 23 Q. Do you know whatever happened to  
 24 Robert Canyon?  
 25 A. I think I believe when I left -- no,

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| <p style="text-align: right;">Page 22</p> <p>1 A. Evangelista</p> <p>2 I don't remember. I think he was</p> <p>3 terminated by my boss Carlos Bueno.</p> <p>4 Q. How about Prather Rehm?</p> <p>5 A. I believe she was terminated as</p> <p>6 well.</p> <p>7 Q. Mr. Evangelista, when was the last</p> <p>8 time you worked at the Plaza Hotel?</p> <p>9 A. The last time I worked at the Plaza</p> <p>10 Hotel, January 2010.</p> <p>11 Q. When was the last time you were in</p> <p>12 New York?</p> <p>13 A. December 2010. December 14th or</p> <p>14 around that time.</p> <p>15 Q. You haven't been back in New York</p> <p>16 recently?</p> <p>17 A. I wish I could but no.</p> <p>18 MR. ZAPATA: That's strange.</p> <p>19 MR. McLANE: Do you want to</p> <p>20 apologize to me --</p> <p>21 MR. ZAPATA: I'm sorry,</p> <p>22 Bill.</p> <p>23 Q. Give me a few more minutes. I think</p> <p>24 I'm almost done.</p> <p>25 A. No problem.</p>   | <p style="text-align: right;">Page 24</p> <p>1 A. Evangelista</p> <p>2 A. No.</p> <p>3 Q. During your first tenure at the</p> <p>4 Plaza this period of time we're talking</p> <p>5 about between 2001 and around 2004 when you</p> <p>6 were working -- specifically when you were</p> <p>7 working on the floor of the Oak Bar did you</p> <p>8 have any responsibility with the</p> <p>9 classification of the employees working</p> <p>10 behind the bar?</p> <p>11 A. No.</p> <p>12 Q. Did you have any reason to know the</p> <p>13 classifications of the employees behind the</p> <p>14 bar?</p> <p>15 A. No.</p> <p>16 Q. Did you ever ask anybody about what</p> <p>17 classifications the employees who worked</p> <p>18 behind the bar were?</p> <p>19 A. No.</p> <p>20 Q. Were you familiar with the</p> <p>21 classification of private-room dining?</p> <p>22 A. Not really, no.</p> <p>23 Q. Were you familiar with any</p> <p>24 classifications other than bartender with</p> <p>25 respect to the Oak Bar if you even knew</p>          |
| <p style="text-align: right;">Page 23</p> <p>1 A. Evangelista</p> <p>2 Q. Did you ever tell Carlos Rivera that</p> <p>3 he was being demoted on or around 2008?</p> <p>4 A. No.</p> <p>5 Q. Mr. Evangelista, how many</p> <p>6 classifications of bartender were there in</p> <p>7 2008 at the Plaza Hotel?</p> <p>8 A. I think -- I believe there was one.</p> <p>9 Q. Did you ever have any conversations</p> <p>10 regarding Carlos Rivera's classification</p> <p>11 with Nancy Bravo?</p> <p>12 A. I don't think so, no.</p> <p>13 Q. I have no further questions.</p> <p>14 MR. McLANE: I have a few.</p> <p>15 EXAMINATION BY</p> <p>16 MR. McLANE:</p> <p>17 Q. Anthony, during your employment at</p> <p>18 the hotel did you ever have any</p> <p>19 responsibility with respect to the recall</p> <p>20 provisions of the collective bargaining</p> <p>21 agreement?</p> <p>22 A. No.</p> <p>23 Q. Did you ever have any authority or</p> <p>24 responsibility with recall provisions with</p> <p>25 the city hall agreement?</p> | <p style="text-align: right;">Page 25</p> <p>1 A. Evangelista</p> <p>2 that title?</p> <p>3 A. From my knowledge, no, I didn't.</p> <p>4 Q. Who -- strike that. Are you aware</p> <p>5 that Mr. Rivera had been written up at the</p> <p>6 Plaza Hotel?</p> <p>7 A. No. I haven't personally been</p> <p>8 involved in any write-ups for him so I</p> <p>9 wouldn't know.</p> <p>10 Q. Did you ever supervise Mr. Rivera?</p> <p>11 A. Yes, I did.</p> <p>12 Q. When was that?</p> <p>13 A. Well, at some point he did</p> <p>14 eventually work in the Rose Club and the</p> <p>15 Champagne Bar along with Liam Flanagan as</p> <p>16 well. That's when I supervised him.</p> <p>17 Q. Do you know the circumstances upon</p> <p>18 which Mr. Rivera wound up working under</p> <p>19 your supervision?</p> <p>20 A. No.</p> <p>21 Q. Mr. Zapata gave you a list of names</p> <p>22 of the bartenders who worked in the Rose</p> <p>23 Club and the Champagne Bar. Did you hire</p> <p>24 any of those bartenders yourself?</p> <p>25 A. Myself, no.</p> |

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| <p style="text-align: right;">Page 26</p> <p>1 A. Evangelista</p> <p>2 Q. Other than the disciplinary problems</p> <p>3 with respect to Mr. Prather in your</p> <p>4 estimation was he a good bartender?</p> <p>5 A. Which person are we talking about?</p> <p>6 Prather Rehm?</p> <p>7 Q. No. I'm talking about -- I think I</p> <p>8 got his name wrong.</p> <p>9 A. Robert Canyon?</p> <p>10 Q. Yes, Canyon. I'm sorry.</p> <p>11 A. Yes. He was a very good bartender</p> <p>12 but he didn't have the discipline to work</p> <p>13 in a five-star hotel.</p> <p>14 Q. That came to light after he was</p> <p>15 hired at the Plaza?</p> <p>16 A. Yes, absolutely.</p> <p>17 Q. Are you -- strike that. You were</p> <p>18 not at the Plaza Hotel when it closed in</p> <p>19 2005?</p> <p>20 A. I was not.</p> <p>21 Q. Am I correct that up until the time</p> <p>22 that you left the hotel you were making the</p> <p>23 schedule for the bartenders in the Rose</p> <p>24 Club and the Champagne Bar?</p> <p>25 A. No, I was moved. I did make the</p> | <p style="text-align: right;">Page 28</p> <p>1 A. Evangelista</p> <p>2 proficiency?</p> <p>3 MR. ZAPATA: Well, I'm</p> <p>4 asking for more documents.</p> <p>5 MR. McLANE: No. I'm saying</p> <p>6 did you also send a proficiency</p> <p>7 letter? I got a correspondence</p> <p>8 from you so I think it was on</p> <p>9 Friday.</p> <p>10 MR. ZAPATA: Yeah, that's</p> <p>11 it.</p> <p>12 MR. McLANE: We do have that</p> <p>13 letter.</p> <p>14 MR. ZAPATA: What I'm asking</p> <p>15 for is the resumes from the Bueno</p> <p>16 deposition.</p> <p>17 MR. McLANE: Okay. The</p> <p>18 resumes for the people that you</p> <p>19 just identified?</p> <p>20 MR. ZAPATA: Yeah.</p> <p>21 MR. McLANE: We'll see what</p> <p>22 we can dig up.</p> <p>23 MR. ZAPATA:</p> <p>24 Mr. Evangelista, thank you very</p> <p>25 much for your cooperation.</p> |
| <p style="text-align: right;">Page 27</p> <p>1 A. Evangelista</p> <p>2 schedules -- the last year or the last</p> <p>3 eight months of my employment I was</p> <p>4 promoted to in-room dining director so I</p> <p>5 moved positions.</p> <p>6 Q. While you were the director who did</p> <p>7 you report directly to?</p> <p>8 A. Carlos Bueno.</p> <p>9 Q. That's all I have. Thanks.</p> <p>10 MR. ZAPATA: Bill, before we</p> <p>11 get off did you get my letter</p> <p>12 regarding the resume?</p> <p>13 MR. McLANE: No.</p> <p>14 MR. ZAPATA: I sent it to</p> <p>15 you via overnight FedEx. It's a</p> <p>16 letter asking for the resumes of</p> <p>17 the individuals that were hired. I</p> <p>18 believe my office sent it to you via</p> <p>19 e-mail as well on Friday. You</p> <p>20 should have received the letter on</p> <p>21 Friday. It was sent to you on</p> <p>22 Thursday night FedEx. You should</p> <p>23 have gotten it Friday FedEx.</p> <p>24 MR. McLANE: Is it contained</p> <p>25 in the letter where you have the</p>        | <p style="text-align: right;">Page 29</p> <p>1</p> <p>2 THE WITNESS: Thank you.</p> <p>3 MR. ZAPATA: All right.</p> <p>4 Have a good night.</p> <p>5 (Time noted: 9:40 p.m.)</p> <p>6 -----</p> <p>7</p> <p>8 ANTHONY EVANGELISTA</p> <p>9 Subscribed and Sworn to before me</p> <p>10 This day of 2011</p> <p>11 -----</p> <p>12</p> <p>13 NOTARY PUBLIC</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>  |

| Page 30 |                      | Page 32 |                      |
|---------|----------------------|---------|----------------------|
| 1       |                      | 2       | ERRATA SHEET         |
| 2       | EXAMINATIONS:        | 3       | PAGE/LINE CORRECTION |
| 3       | EXAMINATION BY 4 8   | 4       |                      |
| 4       | MR. ZAPATA           | 5       |                      |
| 5       | EXAMINATION BY 23 15 | 6       |                      |
| 6       | MR. McLANE           | 7       |                      |
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| Page 31 |   |
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| 1       |   |
| 2       | CERTIFICATE                                 |
| 3       | I, LESLIE CHRISTIAN, hereby certify         |
| 4       | that the Examination Before Trial of        |
| 5       | ANTHONY EVANGELISTA was held before me on   |
| 6       | the 20th day of June, 2011; that said       |
| 7       | witness was duly sworn before the           |
| 8       | commencement of his testimony; that the     |
| 9       | testimony was taken stenographically by     |
| 10      | myself and then transcribed by myself; that |
| 11      | the party was represented by counsel as     |
| 12      | appears herein;                             |
| 13      | That the within transcript is a true        |
| 14      | record of the Examination Before Trial of   |
| 15      | said witness;                               |
| 16      | That I am not connected by blood or         |
| 17      | marriage with any of the parties; that I am |
| 18      | not interested directly or indirectly in    |
| 19      | the outcome of this matter; that I am not   |
| 20      | in the employ of any of the counsel.        |
| 21      | IN WITNESS WHEREOF, I have hereunto set     |
| 22      | my hand this       day of       ,2011       |
| 23      |   |
| 24      | -----                                       |
| 25      | LESLIE CHRISTIAN                            |

Exhibit “E”

2 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

3 ----- x

CARLOS RIVERA,

4

Plaintiff, Index No.

5

10-CIV-6611 (WHP)

6

-against-

7

PLAZA ACCESSORY OWNERS, LP, et al.,

8

Defendants.

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10 EXAMINATION BEFORE TRIAL of the Defendant,  
11 PLAZA ACCESSORY OWNERS, LP, et al., by RAJAN  
12 LAI, taken by the Plaintiff, pursuant to Court  
13 Order, held at the offices of Barrister  
14 Reporting Service, Inc., 120 Broadway, Suite  
15 1111, New York, New York, on May 3, 2011, at  
16 10:10 a.m., before a Notary Public of the State  
17 of New York.

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BARRISTER REPORTING SERVICE, INC.

120 Broadway

24

New York, N.Y. 10271

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